

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

ROBERT HUNTER BIDEN,

Plaintiff,

v.

FOX NEWS NETWORK, LLC; FOX
CORPORATION; VIET D. DINH; JASON
KLARMAN; and JOHN and JANE DOES 1-
100,

Defendants.

Civil Action No.

FOX DEFENDANTS' NOTICE OF REMOVAL

Defendants Fox News Network, LLC (“Fox News”) and Fox Corporation (“Fox Corporation”) (collectively, the “Fox Defendants”) file this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441(a), and 1446 and state as follows:

NATURE OF THE REMOVED ACTION

1. Plaintiff Hunter Biden is the son of the President of the United States and a public figure who has stood at the center of multiple controversies. Over the past several years, Mr. Biden has been the subject of investigations by the U.S. Department of Justice and by committees of the U.S. Congress. These investigations have examined, among other things, Mr. Biden’s business dealings with foreign actors in China and Ukraine, and they have examined whether Mr. Biden received money in return exchange for promises that his father would take official action on behalf of the United States government. In addition, Mr. Biden has been indicted on federal tax charges in California and convicted of federal gun charges in Delaware, and he recently published an autobiography admitting to unlawful drug use and other illegal activities. Mr. Biden’s past and

current conduct remains the subject of intense interest both from members of the public and from governmental authorities.

2. Mr. Biden commenced an action against Fox News, Fox Corporation, and John and Jane Does 1-100 on June 30, 2024, three days after his father President Biden debated former President Donald J. Trump, by filing a Summons and a Complaint in New York Supreme Court, New York County. *See* Compl., Ex. 1. That Complaint alleged that those Defendants violated Mr. Biden's rights under New York law when they published and broadcast programs concerning the investigations and allegations of unlawful activity that had been made against him. *See id.*

3. Defendants filed a Notice of Removal. *See* Notice of Removal, Ex. 2. At the time of that filing, neither Fox News nor Fox Corporation had been served with the Complaint.

4. After the case was removed to federal court, Mr. Biden did not serve the complaint and subsequently dismissed that action unilaterally on July 21, 2024, the same day his father President Biden announced his withdrawal as a presidential candidate. *See* Voluntary Dismissal, Ex. 3.

5. Mr. Biden commenced a second action against Fox News, Fox Corporation, Viet D. Dinh, Jason Klarman, as well as John and Jane Does 1-100 on October 15, 2024 by filing a Summons and a Complaint in New York Supreme Court, New York County. *See* Compl., Ex. 4. Upon information and belief, no Defendant has been served with a Summons and Complaint. The Complaint appears to be nearly identical to the prior complaint with the sole exception of the additional of these two nominal defendants.

THE COURT HAS DIVERSITY JURISDICTION OVER THIS ACTION

6. This Court has diversity jurisdiction because this case presents a controversy between citizens of one or more States, and the amount in controversy exceeds \$75,000. *See* 28

U.S.C. § 1332. Mr. Biden is domiciled in California. The Fox Defendants are citizens of New York (where they are headquartered) and of Delaware (where they are incorporated).

7. Mr. Biden’s attempt to add Viet D. Dinh and Jason Klarman, who are both Fox executives, constitutes fraudulent joinder and a clear effort to evade federal court jurisdiction.

A. The Parties Are Diverse

8. For diversity purposes, Mr. Biden “is a citizen of the State where he is domiciled, which is defined as the place where a person “has his true fixed home . . . and to which, whenever he is absent, he has the intention of returning.” *Hayes v. Doe/Landlord*, 2024 WL 1639521, at *3 (S.D.N.Y. Apr. 15, 2024) (quotation omitted); *see also District of Columbia v. Murphy*, 314 U.S. 441, 455 (1941) (“The place where a man lives is properly taken to be his domicile until facts adduced establish the contrary.”).

9. Mr. Biden is domiciled in California. *See* Ex. 4 at ¶ 27.

10. Fox News is a Delaware limited liability company with its principal place of business in New York. *See id.* at ¶ 28. As a limited liability company, Fox News “takes the citizenship of its members.” *Avant Capital Partners, LLC v. W108 Dev. LLC*, 387 F. Supp. 3d 320, 322 (S.D.N.Y. 2016) (citations omitted). Fox News’s sole member is Fox Television Stations, LLC, whose sole member is Fox Television Holdings, LLC, whose sole member is Foxcorp Holdings, LLC. All of these companies are organized in Delaware. The sole member of Foxcorp Holdings, LLC is Fox Corporation, which is a Delaware corporation with its principal place of business in New York. *See* Ex. 4 at ¶ 28; 28 U.S.C. § 1332(c)(1). Mr. Klarman is a citizen of New York.

11. Accordingly, no Defendant is a citizen of California, since Viet D. Dinh was fraudulently joined. Mr. Biden and the proper Defendants are thus citizens of different States and complete diversity exists.

B. The Amount in Controversy Exceeds \$75,000

12. The Complaint seeks both nonmonetary relief and a money judgment without stating a specific sum. *See* Ex. 4 at Prayer for Relief. The Fox Defendants state that the amount in controversy exceeds \$75,000, exclusive of interests and costs. *See* 28 U.S.C. § 1446(c)(2)(A). Upon information and belief, Mr. Biden seeks damages in excess of \$75,000.

THE PROCEDURAL REQUIREMENTS OF REMOVAL ARE SATISFIED

13. Removal of this action is proper. Under 28 U.S.C. § 1441, “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant . . . to the district court of the United States for the district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a); *see* 28 U.S.C. § 1451(1).

14. New York defendants may not remove a New York state action on diversity grounds once they are “properly joined and served.” 28 U.S.C. § 1441(b)(2). However, neither Fox News nor Fox Corporation has been properly served and thus removal is proper. *See Gibbons v. Bristol-Myers Squibb Co.*, 919 F.3d 699, 704–07 (2d Cir. 2019). Removal also is timely under 28 U.S.C. § 1446, because the Fox Defendants have not yet been served.

15. Mr. Biden’s attempt to add Defendant Viet D. Dinh constitutes fraudulent joinder, since Mr. Biden has no possible claims against Mr. Dinh but added him solely for the purpose of defeating federal jurisdiction. *See Pampillon v. RJR Nabisco, Inc.* 138 F.3d 459 (2d Cir. 1998).

16. Section 1446(a) requires the attachment of all process, pleadings, and orders served upon the removing defendant in the state action. Although neither Fox News nor Fox Corporation has been served, a copy of the Complaint is attached as Exhibit 4.

17. Viet D. Dinh and Jason Klarman consent to the removal of this action.

18. Venue is proper because the United States District Court for the Southern District of New York is the federal judicial district embracing the Supreme Court of New York, New York County. *See* 28 U.S.C. § 1441(a).

19. In accordance with 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal will be served on Mr. Biden, and a copy of this Notice of Removal will be filed with the Clerk of the Supreme Court of the State of New York, County of New York.

20. By filing this Notice of Removal, neither Fox News nor Fox Corporation waive any defense that may be available, including but not limited to insufficient service of process. *See Cantor Fitzgerald, L.P. v. Peaslee*, 88 F.3d 152, 157 n.4 (2d Cir. 1996).

WHEREFORE, the Fox Defendants have removed this action from the Supreme Court of the State of New York, County of New York, to the United States District Court for the Southern District of New York.

Dated: October 15, 2024

Respectfully submitted,

/s/ Steven A. Engel

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CERTIFICATE OF SERVICE

I hereby affirm that on October 15, 2024, I served the foregoing document via Email and First Class U.S. Mail upon the following counsel of record:

VIA EMAIL & FIRST CLASS U.S. MAIL:

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